

6.02: continued

(f) Deferral of Eligibility Determination. In cases where the information submitted in support of an application is insufficient for the regional eligibility team to determine eligibility, the regional eligibility team may defer consideration of the application for up to an additional 60 days from the date of a notification provided under 115 CMR 6.02(3)(g), in order to provide the applicant with time to obtain and submit the requested information and documentation which may include new or additional testing, psychosocial, medical, educational or other assessments, or materials and interviews.

(g) Notification. The regional eligibility team shall provide written notice to the applicant, his or her family, or guardian that the application has been deferred and identify the information and documentation that the regional eligibility team requires in order to determine eligibility, and the deadline for submission of requested information and documentation.

(h) In the event that the person, family, or guardian does not submit the requested information and documentation by the deadline provided in the notification of deferral letter, the regional eligibility team shall determine eligibility based upon the information in its possession.

6.03: Eligibility Letter

(1) Distribution. Upon completion of the eligibility determination, the regional eligibility team shall provide written notification of the eligibility determination within 60 days of receipt of a complete application to the applicant, the applicant's guardian, if any, and the area director or his or her designee notifying the applicant and/or his or her guardian of the decision and the basis therefore.

(2) Contents. The letter shall contain the following findings and statements:

- (a) the eligibility status of the applicant;
- (b) if not eligible, the specific reasons for the determination of ineligibility;
- (c) the identification of the applicant's area of service if eligible;
- (d) the names of the regional eligibility team staff that can be contacted for additional information or problem resolution;
- (e) a statement that the applicant has the right to appeal any finding of the eligibility letter, within 30 days of receipt pursuant to 115 CMR 6.30 through 6.32;
- (f) a statement that supports cannot be initiated without the agreement of the applicant or guardian, and the Department; and
- (g) a statement that the applicant or guardian shall have, an opportunity to meet with a regional eligibility team designee for an explanation of the letter and for an opportunity to discuss any of its findings, if requested within 15 days of the receipt of the report.

6.04: Adult Eligibility for Intellectual Disability or Developmental Disability Supports

(1) Persons who are 22 years of age or older are eligible for Intellectual Disability Supports provided, purchased, or arranged by the Department if the person:

- (a) is domiciled in the Commonwealth; and
- (b) is a person with intellectual disability as defined in 115 CMR 2.01: *Definitions*.

(2) Persons who are 22 years of age or older are eligible for Community Developmental Disability Supports provided, purchased or arranged by the department if the person:

- (a) is domiciled in the commonwealth; and
- (b) is a person with Developmental Disability (Autism Spectrum Disorder, Prader-Willi Syndrome or Smith-Magenis Syndrome) as defined in 115 CMR 2.01: *Definitions*; and
- (c) does not have an intellectual disability as defined in 115 CMR 2.01: *Definitions*.

(3) Domicile.

- (a) For purposes of 115 CMR 6.04(1)(a), a person shall be considered to be domiciled in Massachusetts if he or she resides in Massachusetts with the intention to remain here permanently or for an indefinite period.
- (b) There shall be a presumption that the following individuals are not domiciled in Massachusetts:

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1. Persons who reside in a home or other setting subject to licensure or regulation by the Commonwealth, which residence was arranged or is being funded by another State, including any agency or political subdivision thereof and any entity under contract with the other State for such purposes;
 2. Persons who reside in a home or other setting subject to licensure or regulation by the Commonwealth which residence was arranged by a parent, guardian, or family member who is not domiciled in Massachusetts and was not so domiciled at the time of the person's placement;
 3. Persons, other than those covered under 115 CMR 6.04(3)(b)1. or 2. who reside in a residential special education program and whose parent or guardian is not domiciled in Massachusetts.
- (c) In cases that the regional eligibility team determines that a person is not domiciled in Massachusetts, the Department shall deny eligibility based upon domicile and shall so notify the person. The regional eligibility team shall not proceed to determine whether the person is otherwise eligible in accordance with 115 CMR 6.04; 6.05; and 6.06, as applicable.
- (d) In the event that a person prevails in an appeal of a determination that he or she was not a Massachusetts domiciliary, the Department shall reconsider his or her application without regard to 115 CMR 6.08(1).

6.05: Special Eligibility

- (1) Any person identified in the Class Member Identification List as of April 30, 1993, regardless of current place of residence, or any person who, on or after April 30, 1993 has resided at Monson Developmental Center, Fernald Developmental Center, Wrentham Developmental Center, Templeton Developmental Center or Dever Developmental Center during more than 30 consecutive days or for more than 60 days during any 12-month period shall have special eligibility for services provided, purchased, or arranged by the Department.
- (2) A person with special eligibility is entitled to:
- (a) an assessment of eligibility;
 - (b) a designation of area of service;
 - (c) assignment of a service coordinator;
 - (d) an Individual Support Plan and substantial provision of the services or supports recommended in his or her Individual Support Plan for so long as such services or supports are needed and authorized by the individual and his or her guardians; and
 - (e) the least restrictive, most typical, appropriate residential environment, together with the most appropriate treatment, training and support services suited to that person's individual needs.

6.06: Eligibility for Children's Supports

- (1) Persons who are younger than 22 years of age may be eligible for Children's Supports provided, purchased, or arranged by the Department if the person:
- (a) is domiciled in the Commonwealth; and
 - (b) for persons who are five through 22 years of age, either:
 1. have a severe chronic disability that:
 - a. is attributable to a mental or physical impairment resulting from Intellectual Disability, Autism Spectrum Disorder, Smith-Magenis Syndrome or Prader-Willi Syndrome;
 - b. is likely to continue indefinitely;
 - c. results in substantial functional limitations; or
 2. have a verified diagnosis of Intellectual Disability or a closely related developmental condition that results in substantial functional limitations, or
 - (c) for persons from birth to age five a substantial developmental delay or specific congenital or acquired condition with a high probability of resulting in a developmental disability if services are not provided.
- (2) Domicile.
- (a) For the purposes of 115 CMR 6.06(1), a person younger than 22 years of age who resides in Massachusetts shall be presumed to be domiciled in Massachusetts if: